



# HIPAA and DAWN

Your hospital can participate in DAWN and comply fully with the HIPAA Privacy Rule, *Standards for Privacy for Individually Identifiable Health Information* pursuant to the Health Insurance Portability and Accountability Act of 1996. DAWN is committed by law and by practice to preserving patient privacy.

## ANSWERING YOUR QUESTIONS

### How is DAWN participation permitted?

The HIPAA Privacy Rule permits disclosures of protected health information to DAWN for the purpose of public health surveillance under 45 CFR 164.512(b)(1) of the HIPAA Privacy Rule. This provision permits covered entities to disclose protected health information for public health to a public health authority authorized by law to receive such information for public health surveillance. SAMHSA is a public health authority authorized by Section 505 of the Public Health Service Act to collect data from hospitals on drug-related emergency department (ED) visits. Westat, which operates DAWN under contract to SAMHSA, serves as SAMHSA's agent for the sole purpose of collecting and processing DAWN data.

This provision of HIPAA that permits disclosures for DAWN is the same provision that permits the reporting of infectious diseases. These public health disclosures are permitted without patient authorization.

### Does DAWN meet the minimum necessary standard?

In accord with another provision of the HIPAA Privacy Rule, DAWN requests only the minimum necessary information to fulfill its public health surveillance purpose. DAWN has determined that a complete review of emergency department records is the minimum amount of information necessary to fulfill DAWN's purpose. The Office for Civil Rights, the Federal office responsible for enforcement of the HIPAA Privacy Rule, has affirmed that comprehensive chart review can be a necessity and is a permitted disclosure.

### What are the protections after data submission?

HIPAA no longer applies once the data have been submitted to DAWN because SAMHSA is not a covered entity. Instead, the use and disclosure of individually identifiable data by SAMHSA and its agent, Westat, are governed by two other Federal laws. Section 501(n) of the Public Health Service Act (42 U.S.C. 290aa) and Title V of the E-Government Act of 2002 (P.L. 107-347) prohibit disclosures of individually identifiable DAWN data. Further, identifiable DAWN data can only be used by SAMHSA and its agents for the purpose for which it was collected. This purpose is public health surveillance and its associated statistical activities.

Violations of this law by employees of SAMHSA or Westat carry stiff penalties—up to 5 years in prison and up to \$250,000 in fines.

### How can Westat help account for disclosures?

Under the HIPAA Privacy Rule, hospitals must account for disclosures of protected health information for public health. The Office for Civil Rights has clarified the accounting requirements that apply specifically to DAWN. Upon request, Westat can assist your hospital in meeting these accounting requirements.

**For more information:** If you have questions, please call Westat at **800-FYI-DAWN**. Information about DAWN is also available online at <http://DAWNinfo.samhsa.gov>.